D.B.CIVIL WRIT PETITION No. 381/2003

Date: 06.07.2005.

HON'BLE MR RAJESH BALIA, J.
HON'BLE MR R.S. CHAUHAN, J.

Mr. P.R. Singh for the petitioner.
Mr. H.R. Soni, Addl. Govt. Advocate.
Mr. M.S. Singhvi for the respondents.

The respondent filed a writ petition seeking a mandamus that she is in employment of the respondent Sindhi Vidhya Mandir, Nav Bharat Sr. Secondary School, Udaipur that she is entitled to Selection Scale of pay as applicable to the Primary Teachers from time to time. She was given the pay scale of Rs.160-360 w.e.f. 01.7.72 and thereafter promoted to the post of Sr. Teacher in the pay scale of Rs.225-525 w.e.f. 1.12.76. She has made a demand that she may be given pay scale from the date of her appointment to the post of Senior Teacher, which was subsequently redesignated as Lecturer School Education w.e.f. 1.12.1976. After revision of pay from time to time, the petitioner has submitted that revision of pay scale has not been granted to her.

The learned Single Judge sustained the

contention of the learned counsel for the petitioner-respondent and held that the respondent Nos. 2 and 3 are to grant pay scale of Rs.6500-10500 w.e.f. 9.9.1996 to the petitioner and the respondent State is directed to release the grant-in-aid to the respondent at the rate of 80% of the salary of the petitioner for the post of lecturer only from the date of promotion of the petitioner.

In reaching his conclusion, learned Single Judge has relied on a Full Bench decision of this Court in Sr. Hr. Secondary School Vs. The Rajasthan Non Government Educational Institution Jaipur & ors. reported in 2002(3) WLC page 586.

Aggrieved with the aforesaid order, the State has preferred this appeal, inter alia, on the ground that the appeal of State against the Full Bench decision is pending before Supreme Court and the operation of said judgment is stayed. The petitioner was not entitled to Selection Scale of pay as directed by the Division Bench of this Court in Sr. Hr. Secondary School Vs. The Rajasthan Non Government Educational Institution Jaipur & ors. reported in 2002 (3) WLC page 586, before the said judgment

was stayed by the Supreme Court.

Since the filing of this appeal, the appeal against the judgment of the Full Bench Decision has been dismissed by the Supreme Court by not interfering with the order. In view thereof, the controversy raised in this appeal about the grant of pay scale and inclusion of such pay scale in determining the grant-in-aid to the Non-Government Educational Institutions, is fully covered by the decision of the Full Bench rendered in the aforesaid case.

Consequently, we do not find any force in the contention about grant of Selection Scale to the teachers of Non Government Educational Institutions.

Learned Single Judge has directed the respondents to release the grant-in-aid to the tune of 80% whereas the respondent No. 2 and 3 apprised the Court that the total aid received is to the tune of 60% of the total expenditure incurred upon by them.

This assertion that the respondent institution was entitled to only 60% of grant in respect of teachers salaries has not been supported by any material, nor its factual correction is verifiable.

In the above circumstances, it will be appropriate to clarify that the appellants shall release the grant-in-aid in respect of arrears of salaries that would become payable in term of direction issued by learned Single Judge to the extent the grant-in-aid in relation to salaries and emoluments being paid to respondents for the entire period.

Subject to above clarification, the appeal is dismissed. No costs.

(R.S. CHAUHAN)J. **(RAJESH BALIA)J**

Anil/